

Publicly supported organizations; rulings. A newly created organization that can reasonably be expected to meet the requirements of section 170(b)(1)(A)(vi) of the Code for its first three years of existence may receive a ruling or determination letter that it will be treated as a publicly supported organization even though its first taxable year consists of less than eight months.

Advice has been requested whether, under the circumstances set out below, an organization has existed for sufficient time to receive a ruling or determination letter that it is a publicly supported organization described in section 170(b)(1)(A)(vi) of the Internal Revenue Code of 1954.

The organization, described in section 501(c)(3) of the Code, was created on June 1, 1974, and adopted the calendar year as its taxable year. In 1975 it asked the Internal Revenue Service to classify it as other than a private foundation because it is an organization described in section 170(b)(1)(A)(vi). In connection with its request, the organization submitted information attempting to show that it met the requirements of an organization described in section 170(b)(1)(A)(vi) for its first taxable year ending December 31, 1974.

Section 590(a) of the Code defines 'private foundation' as an organization described in section 501(c)(3) other than an organization specifically excluded by section 509(a). Section 509(a)(1) states that the term 'private foundation' does not include an organization described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)).

Section 1.170A-9(e)(4)(vi) of the Income Tax Regulations provides that an organization that meets the requirements of section 170(b)(1)(A)(vi) of the Code and the regulations thereunder and has been in existence for at least one taxable year consisting of eight or more months may be issued a ruling or determination letter that it is an organization described in section 170(b)(1)(A)(vi).

Section 1.170A-9(e)(5)(v) of the regulations provides that the initial determination of the status of a newly created organization under section 170(b)(1)(A)(vi) of the Code is to be based on a special short computation period. In the case of an organization whose first taxable year is less than eight months, this 'computation period' is either the first two taxable years or the first three taxable years.

Since the organization in this case has not completed one taxable year consisting of at least eight months, it is not eligible for a ruling or determination letter that it is an organization described in section 170(b)(1)(A)(vi) of the Code.

However, the organization may receive a ruling or determination letter that it will be treated as a section 170(b)(1)(A)(vi) organization for its first three taxable years if it can reasonably be expected to meet the requirements of that section. See section 1.170A-9(e)(5) of the regulations.